

**SELECTMEN'S MEETING MINUTES**  
**May 12, 2009**

Members Present: Paul Feeney, Chairman  
Lynda Walsh, Vice Chairman  
Paul Mortenson, Clerk  
Lorraine Brue  
Larry Harrington

Others Present: Andy Gala, Town Manager  
Dan Murphy, Gillette Stadium  
George Bell, Stadium Advisory Chairman  
Joel Angelico, Stadium Advisory Co-Chair  
Debbie Giardino, Recreation Director  
Heather Harding, Board of Recreation  
Peter St. Laurent, Board of Recreation, Chairman  
Judith Johnson, Conservation Commission  
Bob Boette, Conservation Commission Chairman  
Jack Authelet, Foxborough Historical Emeritus  
Carl Kusch, Paul F. Godin, Kristin Hovey, Kenneth Bryant,  
Donald Wright, Christian Arcaro, Emelie Bonin, Robert Hicks,  
V. Taylor Ford, Conservation Commission members.

The meeting was brought to order at 7:00 p.m. by Paul Feeney, Chairman.

**7:00 – Board Reorganization –**

Motion by Paul Mortenson to nominate Paul Feeney as Chairman.  
Seconded by Lynda Walsh. **Vote: 5-0-0**

Motion by Paul Mortenson to nominate Lynda Walsh as Vice Chairman.  
Seconded by Paul Feeney. **Vote: 5-0-0**

Motion by Paul Feeney to nominate Paul Mortenson as Clerk. Seconded  
by Lynda Walsh. **Vote: 5-0-0**

**Citizen's Input** – Debbie Giardino, Recreation Director and Heather Harding came before the Board to express their concern regarding future appointment and/or re-appointments to the Boards and Committees to be made by the BOS. Debbie pointed out that the Board had made 41 appointments to Boards and/or Committees at a previous meeting and of those seeking re-appointment only two were asked to come before the Board for an interview. She is looking for consistency in this process. Heather Harding is concerned that volunteers will be discouraged from serving the community if they are subject to being interviewed by the Board.

Paul Feeney explained that the process for re-appointing members of Boards or Committees had been discussed during a previous meeting. In the case of Anita Kloss there might be a conflict of interest and to clarify that, the Board felt an interview was the appropriate action. Larry Harrington suggested that the Board look into creating a policy that would establish consistency. He pointed out there is an old policy and that would be a good basis to get things started. Lynda Walsh put her faith in all the Boards to choose appropriate candidates. She has no problem with either Anita Kloss or Judith Johnson. Paul Mortenson said the Board should ask questions through the interview process if there is concern about how the appointment might affect the Town. Making the right decision is up to the BOS and written guidelines might be helpful.

**7:05 – Public Hearing – AC/DC Black Ice Concert** – Paul Mortenson, Clerk, read the Public Hearing Notice. The purpose of this hearing was to review the application by NPS LLC for the AC/DC Black Ice concert, scheduled for July 28, 2009 at Gillette Stadium.

Dan Murphy reviewed the application. Scheduled are three acts, estimated attendance is 45,000 people all seats reserved, primary event start time 6:00 p.m. and end time 11:15 p.m. Dan said Live Nation is the promoter for this concert. Dan said they would be again working with Al Dotoli, sound production, who works well with Foxborough. George Bell, Stadium Advisory Committee Chairman, reported that after meeting with the Building Commissioner and Public Safety Chiefs, the Committee voted unanimously to recommend approval of the application by NPS LLC for the AC/DC Black Ice concert on July 28, 2009.

A brief discussion ensued regarding the conditions that make each event unique as to the impact on the Town. Paul Feeney read a letter from Police Chief O'Leary supporting this event as well as notice in the affirmative from Fire Chief Roger Hatfield. Lorraine Brue asked if there were any outstanding invoices. Andy Gala said there are still some loose ends and he hopes to have those resolved very soon. Joe Angelico said the number of complaints coming in through the hot line have decreased over the last two or three years. Those complaints are forwarded to Town Administration the next day.

Motion by Lynda Walsh to close the Public Hearing. Seconded by Paul Mortenson. **Vote: 5-0-0**

Motion by Paul Mortenson to approve the license application as submitted by NPS LLC for a concert by AC/DC Black Ice, scheduled for July 28, 2009. Seconded by Lynda Walsh. **Vote: 5-0-0**

**7:20 – Public Hearing – U2 360 Concert** – Paul Mortenson, Clerk, read the Public Hearing Notice. The purpose of this Public Hearing was to review the

application by NPS LLC for the U2 360 concert, scheduled for September 20 & 21, 2009.

Dan Murphy reviewed the application. Scheduled for three acts, estimated attendance 65,000, primary event start time 7:00 p.m. and end time 11:15 p.m. Dan said Live Nation is the promoter for this concert. George Bell, Stadium Advisory Chairman, said the Committee voted unanimously to recommend that the Board approve this application. Approval was also given by Police Chief O'Leary and Fire Chief Roger Hatfield.

A brief discussion was held. Dan Murphy said this is the first time for a 360 degree show; there will be no fireworks. He said this would be slightly different because there is a performance on Monday and that creates different traffic flow. Lynda Walsh asked if Gillette would still operate with the "No Ticket, No Entry" rule. Dan replied "yes" and there would be notification to all ticket holders. Paul Feeney asked about the traffic expected on Beach and Mechanic Streets and whether residents would be asked to show a pass. Chief O'Leary said his department was printing up neighborhood passes for football games but passes are not used for concerts. There will be check points.

Motion by Lynda Walsh to close the Public Hearing. Seconded by Paul Mortenson. **Vote: 5-0-0**

Motion by Paul Mortenson to approve the license application as submitted by NPS LLC for the U2 360 Concert, scheduled for September 20 & 21, 2009. Seconded by Lynda Walsh. **Vote: 5-0-0**

**Security at the Stadium** - Andy Gala asked the Board to discuss Action item 9 at this time as long a Police Chief O'Leary was present. He explained that this Item concerned Training session on Police services and security at the Stadium. He said two dates had been proposed – Thursday, May 14 or Saturday, May 16, 2009. Chief O'Leary said he would leave it up to the Board but he would like to have it happen before the Board meets again. He felt it would be helpful for the Board to have this information on the process but to have this discussion in executive session. The Board chose to have this meeting posted as an Executive Session for Thursday, May 14<sup>th</sup> at the Public Safety Building.

**7:45 – Interview for Re-appointment** - Lorraine Brue recused herself from this discussion. Bob Boette, Conservation Chairman and Judith Johnson came before the Board to discuss her re-appointment to the Commission. Paul Feeney explained why the Board made the decision to interview the candidates for re-appointment. Ms. Johnson gave a summary of her background in the field of conservation and said that she has been a member on the Conservation Commission for eight, plus, years. She is an advocate for open space but recognizes that the Town is growing. She said she is not against growth but

wants it to be “smart growth”. In her opinion Conservation working in cooperation with the Town, open space can be achieved with no loss of tax revenue. Ms Johnson was highly praised in a letter from Bill Hocking, former Conservation Commission chairman saying she has been the best qualified volunteer on the Commission during his time as Chairman.

A lengthy discussion followed including the amount of time spent by volunteers on Conservation issues, protecting water and wet lands and endangered species. It was suggested that a meeting be set up between Conservation and Town Administration to discuss protection of areas in Town that would be top priority areas. Bob Boette said he would like to see a program developed in which Conservation would go into the schools to teach about preserving open space and protection of wild life, etc. He would like to see more work done on trails so the land could be used properly. Larry Harrington suggested the Board should meet jointly with committees to which they appoint members to achieve a better understanding of the activities and responsibilities of those committees. This would help with better communication when issues arise. Larry also suggested that the Board receive copies of the minutes of meetings of other boards or committees. Paul Feeney pointed out that there are three or four other applicants on file expressing an interest in being appointed to the Conservation Commission. He does not know at this time whether they are still interested. Larry Harrington said that there is no policy in place at this time and the Chairman has not contacted the interested parties; he would be comfortable in moving forward with the re-appointment of Judith Johnson at this meeting. Paul Feeney said that in the absence of a policy, he does not want this to affect the other applicants. He does not want to say they cannot come in for an interview if they are still interested. He added that Ms. Johnson’s performance is not being questioned but that the vote of the Board should reflect how they felt about the candidates. Lynda Walsh pointed out that if those persons indicating interest knew an appointment was coming up, they should be reaching out to indicate whether or not they are still interested. She does not want to fault Conservation or Judith Johnson because the BOS did not act on this in a timely fashion. Paul Mortenson said he agreed that the Board should review this issue next March in terms of writing a policy to guide decision making, however, he felt it is not incumbent on the Board to make a decision at this time. Bob Boette felt any delay in this would be very unjust. Paul Feeney pointed out that anybody who wants to be given the opportunity to serve the community should come before the Board for an interview. He suggested the Board wait a couple of weeks in order to interview everybody interested. Further comments were made from Bill Hocking and Judith Johnson. Judith Johnson said she expects that other boards/committees would be required to go through the same process; all she is looking for is consistency in how people are chosen to serve.

**7:55 – Board of Recreation Re-appointment -** Anita Kloss came before the Board to interview for re-appointment to the Board of Recreation. Debbie Giardino and Peter St.Lauren were also present. The issue for the Board on this

re-appointment was that Anita Kloss is a plaintiff in a pending law suit against the Town. The Board questioned whether or not this could be a conflict of interest. Paul Feeny said the Board felt this would not affect the validity of being on the Board of Recreation. He had no questions. There were no questions from other members of the Board.

Motion by Lynda Walsh to approve the re-appointment of Anita Kloss as an alternate member of the Board of Recreation for one year. Seconded by Larry Harrington. **Vote: 5-0-0**

**8:10 – Foxborough Historical Commission** – Jack Authelet and members of the Foxborough Historical Commission were present to honor Carl Kusch and Paul Godin for their years of service to the Town and to the Historical Commission. Jack Authelet presented an inscribed gavel to Carl Kusch who was Chairman for 30 years. Paul Godin was also honored for his twelve years of service on the Commission. Jack asked that Carl be recognized as a Commissioner Emeritus and Paul be awarded an honorary life membership.

A brief discussion ensued. Paul Feeny asked that the Board consider making the requested designations noting that they would be non-voting members. Lynda Walsh thanked Carl and Paul for their dedication to preserving the history of Foxborough. She said they would prove to be good mentors for new members of the Commission.

Motion by Paul Mortenson to appoint Robert E. Hicks and Christian Arcaro as full members of the Foxborough Historical Commission. Seconded by Lorraine Brue. **Vote: 5-0-0**

Motion by Lynda Walsh to recognize Carl Kusch as Commissioner Emeritus and Paul Godin as a Honorary Life Member of the Foxborough Historical Commission. Seconded by Paul Mortenson. **Vote: 5-0-0**

Andy Gala asked the Board to address Item #10 – Donation of Foxhill Ave. Parcel, on the Action list at this time. Lynda Walsh recused herself from this discussion. Andy Gala explained this is a donation of a parcel of land to Conservation. Bob Boette, Conservation Chairman, said being mindful of the amount of tax exempt parcels in Town, he did not “push” for this property; he decided to let the BOS “take the lead on this”. He feels this land cannot be developed, although things change over the years. After a brief discussion, the BOS respectfully declined the donation of the Foxhill Ave. parcel.

Action Item #11 – Application for Nadia Estates. Andy Gala said the Planning Board has scheduled a meeting for May 21, 2009 to discuss the application for a Comprehensive Permit for a 40B project. He said this came before the Board quite a while ago and there were several concerns at that time particularly that of the traffic impact near Mechanic and Oak Street. A brief

discussion was held concerning who would be able to attend the Planning Board meeting.

## **ACTION**

**Minutes** – The Minutes of the Board of Selectmen's meetings of April 7 and April 28, 2009 were reviewed.

A brief discussion was held. Larry Harrington suggested that the minutes not reflect as much verbatim discussion as only brief more general statements would fulfill the requirements of the open meeting law. He pointed out that the meetings are on cable and recorded.

Motion by Paul Mortenson to approve the BOS Minutes of April 28, 2009 as submitted. Seconded by Lynda Walsh. **Vote: 3-0-2**

Motion by Lynda Walsh to approve the BOS Minutes of April 7, 2009 as submitted. Seconded by Paul Mortenson. **Vote: 3-0-2**

**FY-10 Selectmen's Meeting Schedule** – Andy Gala prepared a meeting schedule for FY-10 for approval.

Motion by Paul Mortenson to approve the meeting schedule for FY-10 as prepared by Andy Gala, Town Manager. Seconded by Lorraine Brue.  
**Vote: 5-0-0**

**Invoice** – Received from Deutsch Williams an itemized invoice for legal services rendered through 04/30/09 in the amount of \$7,655.41.

Motion by Lynda Walsh to approve the Invoice from Deutsch Williams for services rendered through April 30, 2009 in the amount of \$7,655.41. Seconded by Paul Mortenson. **Vote: 5-0-0**

**Invoice** – Received from Attorney Peter J. Epstein, Epstein & August, LLP, an invoice in the amount of \$1,570.00 for services through April 22, 2009 relative to Cable Television Licensing. Andy Gala explained this is covered by a donation from Foxboro Cable Access.

Motion by Lynda Walsh to approve the invoice from Epstein & August, LLP in the amount of \$1,570.00 for services rendered through April 22, 2009. Seconded by Paul Mortenson. **Vote: 5-0-0**

**9<sup>th</sup> Annual Foxboro Against Diabetes Road Race** – Received from Richard Noonan, Jr., on behalf of Foxboro Against Diabetes a request for permission to conduct the 9<sup>th</sup> Annual Road Race on May 30, 2009 from 8:00 a.m. to 12:00 noon, through various streets in Foxborough. A brief discussion was held.

Motion by Lynda Walsh to approve the request as submitted by Richard Noonan, Jr. to conduct the 9<sup>th</sup> Annual Foxboro Against Diabetes Road Race on May 30, 2009. Seconded by Paul Mortenson. **Vote: 5-0-0**

**One Day Beer and Wine Licenses** – Received from Bill Cunningham, on behalf of Bay Colony Productions a request for One Day Beer and Wine License for May 15, 2009 and June 26, 2009 for monthly comedy night.

Motion by Lynda Walsh to approve two One Day Beer and Wine Licenses for events on May 15 and June 26, 2009 as requested by Bay Colony Productions. Seconded by Paul Mortenson. **Vote: 5-0-0**

**Common Victuallers License** – Received from Break Away Café at the Foxboro Sports Center an application for a Common Victuallers License.

Motion by Lynda Walsh to approve the application for a Common Victuallers License as submitted by Break Away Café and license to expire 12/31/09. Seconded by Paul Mortenson. **Vote: 5-0-0**

**Hackie Licenses** – Received a Hackie License application from Ricky Lee Larson, 287 Mt. Hope Street, N. Attleboro to drive for East Coast Limo.

Motion by Lynda Walsh to approve the application for a Hackie License from Ricky Lee Larson, 287 Mt. Hope Street, N. Attleboro for a two year license. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Hackie License** – Received from Roy L. Kuphal, 22 Main Street, Norfolk a Hackie License application to drive for East Coast Limo.

Motion by Lynda Walsh to approve the application for a Hackie License from Roy L. Kuphal, 22 Main Street, Norfolk to drive for East Coast Limo. Seconded by Lorraine Brue. **Vote: 5-0-0**

**Committee Resignations** – Received from Erik J. Bednarek a letter of resignation as a member of the Zoning By-Law Review Committee as of May 1, 2009.

Motion by Paul Mortenson to accept the resignation of Erik J. Bednarek as a member of the Zoning By-Law Review Committee, effective May 1, 2009 as requested. Seconded by Lorraine Brue. **Vote: 5-0-0**

Received from Gloria M. Barnes notice of her resignation as a teacher representative for the Employee Insurance Advisory Committee, effective May 11, 2009.

Motion by Paul Mortenson to accept the resignation of Gloria M. Barnes as a teacher representative for the Employee Insurance Advisory Committee, effective May 11, 2009 as requested. Seconded by Lorraine Brue.

**Vote: 5-0-0**

**Tuition Reimbursement** – Received from Police Chief O’Leary a request for tuition reimbursement in the amount of \$1,425.00 for Officer Kerry Apgar for courses taken at University of Lowell, enrolled in Master’s of Criminal Justice.

Motion by Lynda Walsh to approve the request for tuition reimbursement in the amount of \$1,425.00 for Officer Kerry Apgar for courses taken at the University of Lowell. Seconded by Paul Mortenson. **Vote: 5-0-0**

### **OLD/NEW BUSINESS**

Paul Mortenson reminded the Board that Lynn Foell asked if the Board wanted to put the Town’s name on intervening with regard to Verizon. Paul had volunteered to attend the Public Hearing, as this has moved forward, Paul said he saw no compelling reason to attend that hearing.

Larry Harrington suggested that an agenda be made available to people who attend the BOS meetings so that they might more easily follow along. He also suggested that the Board meet on a day other than Tuesday to discuss goals and objectives and strategies for the coming year.

Paul Feeney pointed out that the State might hold off on the footbridge and something that the Board might want to do is to try to get some additional revenue by looking into advertising on the footbridge. He thought this might be highly marketable given that it would be next to the business development.

Andy Gala spoke briefly about a liquor violation at Central Wine & Spirits on Main Street.

Motion by Paul Mortenson to adjourn. Seconded by Lynda Walsh.

<b>Vote: 5-0-0</b>	Paul Feeney, Chairman	Yes
	Lynda Walsh, Vice Chairman	Yes
	Paul Mortenson, Clerk	Yes
	Lorraine Brue	Yes
	Larry Harrington	Yes

Meeting adjourned at 9:15 P.M.

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Paul Mortenson, Clerk